

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

UNITED STATES RESPONSE TO AUGUST 6, 2013 ORDER OF THE COURT

Now Comes the United States and responds to the order of this honorable Court above-referenced as follows:

1. The order of the Court denied without prejudice the assented to motion to continue by the defense, and noted that the Court requires an explanation as to why audio and video recordings of witnesses have not been produced to defense counsel for a trial commencing in two weeks.
2. Counsel for the United States provided discovery in two transmissions, the first on May 14, 2013 and the second on May 16, 2013, shortly after defendant's arraignment on May 10, 2013, and said discovery transmissions contained everything in the file at the U.S. Attorney's office.
3. When counsel for the United States contacted counsel for the defense (by email and voice mail) on July 25 2013 to inquire after the intentions of the defendant regarding the August 20th trial, defense counsel indicated to counsel for the United States (by cell phone conversation on July 26) that defense counsel was on vacation out of state until August 5, but that he needed to further communicate with the defendant (as defense counsel's motion indicates, discussions of a potential non-trial disposition of this case are

ongoing) and that he believed that the discovery he had been sent did not contain audio and video recordings of witnesses mentioned in the written reports he had been provided.

4. When counsel for the United States was informed of this, he determined that the Manchester Police Department did in fact have such recordings which had not been transmitted to the U.S. Attorney's office, and counsel had the police immediately make copies and deliver them to the office of the U.S. Attorney on August 5, so he could deliver them to defense counsel upon his return from vacation.
5. In sum, counsel for both the United States and the defense have been, and continue to be, working cooperatively in an effort to conserve judicial resources in the ultimate disposition of this case, but the press of other business bearing on counsel for both the United States and the defense resulted in a somewhat untimely discovery of an inadvertent incomplete transmission of discovery, which was promptly corrected once revealed.

Respectfully submitted,

JOHN P. KACAVAS
United States Attorney

Date: August 6, 2013

By /s/ Alfred Rubega
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **UNITED STATES RESPONSE TO AUGUST 6, 2013 ORDER OF THE COURT** was filed electronically through ECF with a copy served electronically to Paul Garrity, Esq., counsel of record.

Date: August 6, 2013

By:/s/ Alfred Rubega
Assistant U.S. Attorney